

Senate File 2288 - Reprinted

SENATE FILE 2288
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SF 2070)

(As Amended and Passed by the Senate February 25, 2016)

A BILL FOR

1 An Act relating to the confidentiality of juvenile court
2 records in delinquency proceedings.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 232.11, subsection 1, unnumbered
2 paragraph 1, Code 2016, is amended to read as follows:

3 A child shall have the right to be represented by counsel at
4 the following stages of the proceedings within the jurisdiction
5 of the juvenile court under division II or division VIII:

6 Sec. 2. Section 232.11, subsection 1, Code 2016, is amended
7 by adding the following new paragraph:

8 NEW PARAGRAPH. *g.* A hearing on a confidentiality order
9 under section 232.149A or a public records order under section
10 232.149B.

11 Sec. 3. Section 232.19, subsection 4, Code 2016, is amended
12 to read as follows:

13 4. Information pertaining to a child who is at least ten
14 years of age and who is taken into custody for a delinquent
15 act which would be a ~~public offense~~ forcible felony offense
16 if committed by an adult is a public record and is not
17 confidential under section 232.147, subject to the provisions
18 of section 232.149.

19 Sec. 4. Section 232.147, subsections 2 and 6, Code 2016, are
20 amended by striking the subsections.

21 Sec. 5. Section 232.147, subsection 3, unnumbered paragraph
22 1, Code 2016, is amended to read as follows:

23 Official juvenile court records in all cases except those
24 alleging ~~delinquency~~ the commission of a delinquent act that
25 would be a forcible felony if committed by an adult shall be
26 confidential and are not public records ~~but.~~ Unless an order
27 sealing such confidential records in a delinquency proceeding
28 has been entered pursuant to section 232.150, confidential
29 records may be inspected and their contents shall be disclosed
30 to the following without court order, provided that a person
31 or entity who inspects or receives a confidential record under
32 this section shall not disclose the confidential record or its
33 contents unless required by law:

34 Sec. 6. Section 232.147, subsection 3, paragraphs e and f,
35 Code 2016, are amended to read as follows:

1 *e.* An agency, association, facility or institution which
2 has custody of the child, or is legally responsible for the
3 care, treatment or supervision of the child, including but not
4 limited to the department of human services.

5 *f.* A court, court professional staff, and adult probation
6 officers in connection with the preparation of a presentence
7 report concerning a person who prior thereto had been the
8 subject of a juvenile court delinquency proceeding.

9 Sec. 7. Section 232.147, subsection 3, Code 2016, is amended
10 by adding the following new paragraphs:

11 NEW PARAGRAPH. *i.* The department of corrections.

12 NEW PARAGRAPH. *j.* A judicial district department of
13 correctional services.

14 NEW PARAGRAPH. *k.* The board of parole.

15 NEW PARAGRAPH. *l.* The superintendent or the
16 superintendent's designee of the school district for
17 the school attended by the child or the authorities in charge
18 of an accredited nonpublic school attended by the child.

19 NEW PARAGRAPH. *m.* A member of the armed forces of the
20 United States who is conducting a background investigation of
21 an individual pursuant to federal law.

22 NEW PARAGRAPH. *n.* The statistical analysis center for the
23 purposes stated in section 216A.136.

24 NEW PARAGRAPH. *o.* A state or local law enforcement agency.

25 NEW PARAGRAPH. *p.* The alleged victim of the delinquent act.

26 Sec. 8. Section 232.147, Code 2016, is amended by adding the
27 following new subsections:

28 NEW SUBSECTION. 3A. Official juvenile court records
29 containing a petition or complaint alleging the commission of a
30 delinquent act that would be a forcible felony if committed by
31 an adult shall be public records subject to a confidentiality
32 order under section 232.149A or sealing under section 232.150.
33 However, such official records shall not be available to the
34 public or any governmental agency through the internet or in
35 an electronic customized data report unless the child has been

1 adjudicated delinquent in the matter. However, such official
2 juvenile court records shall be disclosed through the internet
3 or in an electronic customized data report prior to the child
4 being adjudicated delinquent to the following without court
5 order:

6 *a.* The judge and professional court staff, including
7 juvenile court officers.

8 *b.* The child's counsel or guardian ad litem.

9 *c.* The county attorney and the county attorney's assistants.

10 *d.* A court, court professional staff, and adult probation
11 officers in connection with the preparation of a presentence
12 report concerning a person who prior thereto had been the
13 subject of a juvenile court proceeding.

14 *e.* A state or local law enforcement agency.

15 *f.* The state public defender.

16 *g.* The statistical analysis center for the purposes stated
17 in section 216A.136.

18 *h.* The department of human services.

19 *i.* The department of corrections.

20 *j.* A judicial district department of correctional services.

21 *k.* The board of parole.

22 NEW SUBSECTION. 3B. If the court has excluded the public
23 from a hearing pursuant to section 232.39 or 232.92, the
24 transcript of the proceedings shall not be deemed a public
25 record and inspection and disclosure of the contents of the
26 transcript shall not be permitted except pursuant to a court
27 order or unless otherwise provided in this chapter.

28 NEW SUBSECTION. 3C. Delinquency complaints under section
29 232.28 shall be released in accordance with section 915.25.
30 Other official juvenile court records in a delinquency
31 proceeding that are public records under this section and that
32 have not been made confidential pursuant to section 232.149A or
33 sealed pursuant to section 232.150 may be released under this
34 section by a juvenile court officer.

35 NEW SUBSECTION. 12. Notwithstanding any provision of this

1 section or a confidentiality order entered pursuant to section
2 232.149A, the juvenile court shall notify the department of
3 transportation as required by sections 321.213 and 321.213A.

4 NEW SUBSECTION. 13. The confidentiality of a final
5 adjudication of delinquency under this section or pursuant to
6 section 232.149A shall not prohibit the state from pleading
7 or proving the adjudication at a subsequent criminal or
8 delinquency proceeding for the purpose of penalty enhancement
9 when a provision of the Code specifically deems the delinquency
10 adjudication to constitute a final conviction.

11 NEW SUBSECTION. 14. A provision in this section or section
12 232.149A or 232.150 shall not be construed to limit or restrict
13 the production, use, or introduction of official juvenile court
14 records in any juvenile or adult criminal proceeding, where
15 such records are relevant and deemed admissible under any other
16 provision of the law.

17 NEW SUBSECTION. 15. A provision in this section or
18 section 232.149A shall not limit or prohibit individuals from
19 performing any duties or responsibilities as required by
20 section 124.415, 232.47, or 232.49.

21 NEW SUBSECTION. 16. Notwithstanding any provision of this
22 section or section 232.149A to the contrary, if the child has
23 been discharged from the jurisdiction of the juvenile court in
24 a delinquency proceeding due to reaching the age of eighteen
25 and restitution remains unpaid, the name of the court, the
26 title of the action, and the court's file number shall not
27 be kept confidential, and the restitution amount shall be
28 a judgment and lien as provided in sections 910.7A, 910.8,
29 910.10, and 915.28 until the restitution is paid.

30 NEW SUBSECTION. 17. Notwithstanding any other provision of
31 law, a public record which is confidential under the provisions
32 of this chapter shall only be subject to release upon order of
33 a court in a proceeding under this chapter.

34 Sec. 9. Section 232.147, subsection 5, unnumbered paragraph
35 1, Code 2016, is amended to read as follows:

1 Pursuant to court order, official juvenile court records may
2 be inspected by and their contents may be disclosed to:

3 Sec. 10. Section 232.149, Code 2016, is amended to read as
4 follows:

5 **232.149 Records of criminal or juvenile justice agencies,**
6 **intake officers, and juvenile court officers.**

7 1. The taking of a child into custody under the provisions
8 of [section 232.19](#) shall not be considered an arrest.

9 2. Records and files of a criminal or juvenile justice
10 agency, an intake officer, or a juvenile court officer
11 concerning a child involved in a delinquent act are ~~public~~
12 ~~records, except that release of criminal history data,~~
13 ~~intelligence data, and law enforcement investigatory files is~~
14 ~~subject to the provisions of [section 22.7](#) and [chapter 692](#),~~
15 ~~and juvenile court social records, as defined in section~~
16 ~~232.2, subsection 31, shall be deemed confidential criminal~~
17 ~~identification files under section 22.7, subsection 9~~
18 confidential. The records are subject to sealing under section
19 232.150 unless the juvenile court waives its jurisdiction over
20 the child so that the child may be prosecuted as an adult for
21 a public offense.

22 3. Records and files of a criminal or juvenile justice
23 agency, an intake officer, or a juvenile court officer
24 concerning a defendant transferred under [section 803.6](#) to the
25 juvenile court for the alleged commission of a public offense
26 are public records, except that release of criminal history
27 data, intelligence data, and law enforcement investigatory
28 files is subject to the provisions of [section 22.7](#) and
29 chapter 692, and juvenile court social records shall be deemed
30 confidential criminal identification files under section 22.7,
31 subsection 9. The records are subject to sealing under section
32 232.150.

33 4. Notwithstanding [subsection 2](#), if a juvenile who has
34 been placed in detention under [section 232.22](#) escapes from the
35 facility, the criminal or juvenile justice agency may release

1 the name of the juvenile, the facts surrounding the escape, and
2 the offense or alleged offense which resulted in the placement
3 of the juvenile in the facility.

4 5. Records of an intake officer or juvenile court officer
5 containing a dismissal of a complaint or an informal adjustment
6 of a complaint if no petition is filed relating to the
7 complaint, shall not be available to the public and may only be
8 inspected by or disclosed to the following:

9 a. The judge and professional court staff, including
10 juvenile court officers.

11 b. The child's counsel or guardian ad litem.

12 c. The county attorney and county attorney's assistants.

13 d. The superintendent or the superintendent's designee of
14 the school district for the school attended by the child or
15 the authorities in charge of an accredited nonpublic school
16 attended by the child.

17 e. A member of the armed forces of the United States who is
18 conducting a background investigation of an individual pursuant
19 to federal law.

20 f. The statistical analysis center for the purposes stated
21 in section 216A.136.

22 g. The state public defender.

23 h. The department of human services.

24 i. The alleged victim of the delinquent act.

25 Sec. 11. Section 232.149A, subsections 1 and 3, Code 2016,
26 are amended to read as follows:

27 1. Notwithstanding any other provision of the Code to
28 the contrary, upon the court's own motion or application of
29 a person who ~~was taken into custody for a delinquent act or~~
30 was the subject of a complaint ~~alleging delinquency or was the~~
31 ~~subject of a delinquency petition, or upon the court's own~~
32 ~~motion,~~ alleging the commission of a delinquent act that would
33 be a forcible felony if committed by an adult, the court after
34 hearing, shall order official juvenile court records in the
35 case to be ~~kept~~ confidential and no longer public records under

1 sections 232.19, 232.147, and ~~232.149~~ 915.25, if the court
2 finds both of the following apply:

3 a. The case has been dismissed without any adjudication
4 of delinquency and the person is no longer subject to the
5 jurisdiction of the juvenile court in the matter.

6 b. ~~Making the records confidential is in the best interests~~
7 ~~of the person and the public~~ The child's interest in making the
8 records confidential outweighs the public's interest in the
9 records remaining public records.

10 3. ~~Official~~ Unless an order sealing the records has been
11 entered pursuant to section 232.150, official juvenile court
12 records subject to a confidentiality order may be inspected
13 and their contents shall be disclosed to the following without
14 court order:

15 a. The judge and professional court staff, including
16 juvenile court officers.

17 b. The child and the child's counsel.

18 c. The child's parent, guardian or custodian, court
19 appointed special advocate, and guardian ad litem, and
20 the members of the child advocacy board created in section
21 237.16 or a local citizen foster care review board created in
22 accordance with section 237.19 who are assigning or reviewing
23 the child's case.

24 d. The county attorney and the county attorney's assistants.

25 e. An agency, association, facility, or institution which
26 has custody of the child, or is legally responsible for the
27 care, treatment, or supervision of the child, including but not
28 limited to the department of human services.

29 f. A court, court professional staff, and adult probation
30 officers in connection with the preparation of a presentence
31 report concerning a person who had been the subject of a
32 juvenile court proceeding.

33 g. The child's foster parent or an individual providing
34 preadoptive care to the child.

35 h. A state or local law enforcement agency.

1 *i.* The state public defender.

2 *j.* The department of corrections.

3 *k.* A judicial district department of correctional services.

4 *l.* The board of parole.

5 *m.* The statistical analysis center for the purposes stated
6 in section 216A.136.

7 *n.* The alleged victim of the delinquent act.

8 *o.* A member of the armed forces of the United States who is
9 conducting a background investigation of an individual pursuant
10 to federal law.

11 Sec. 12. Section 232.149A, subsection 4, Code 2016, is
12 amended by striking the subsection.

13 Sec. 13. NEW SECTION. 232.149B Public records orders.

14 1. A rebuttable presumption exists that official juvenile
15 court records in delinquency proceedings that do not involve
16 an allegation of delinquency that would be a forcible felony
17 offense if committed by an adult shall remain confidential as
18 provided by section 232.147.

19 2. Upon application of any person or upon the court's own
20 motion at any time prior to the termination of juvenile court
21 jurisdiction over the charged juvenile, and after hearing, the
22 court shall order the official juvenile court records in such
23 a delinquency proceeding to be public records if any of the
24 following apply:

25 *a.* The public's interest in making the records public
26 outweighs the juvenile's interest in maintaining the
27 confidentiality of the records.

28 *b.* The juvenile has been placed on youthful offender status
29 pursuant to section 232.45, subsection 7, and section 907.3A,
30 subsection 1, and will be transferred back to the district
31 court for sentencing prior to the child's eighteenth birthday.

32 3. Upon application of any person or upon the court's own
33 motion at any time prior to the termination of juvenile court
34 jurisdiction over the charged juvenile, and after hearing, the
35 court may order the official juvenile court records in such a

1 delinquency proceeding to be public records if the juvenile has
2 been subsequently adjudicated delinquent for a public offense
3 that would be a serious misdemeanor, aggravated misdemeanor, or
4 felony offense if committed by an adult, or another delinquency
5 proceeding is pending seeking such an adjudication.

6 4. Records subject to a public records order may be sealed
7 at a later date pursuant to section 232.150.

8 Sec. 14. Section 232.150, subsection 1, paragraph a,
9 unnumbered paragraph 1, Code 2016, is amended to read as
10 follows:

11 In the case of an adjudication of delinquency, the court,
12 shall upon its own motion, ~~shall~~ schedule a sealing of records
13 hearing to be held two years after the date of the last
14 official action, or the date the child becomes eighteen years
15 of age, whichever is later, ~~or. The court shall also schedule~~
16 a sealing of records hearing upon application of a person who
17 ~~was taken into custody for a delinquent act or was the subject~~
18 ~~of a complaint alleging delinquency or was the subject of a~~
19 ~~delinquency petition, or upon the court's own motion, the~~
20 alleging delinquency that did not result in an adjudication.
21 The court, after hearing, shall order the official juvenile
22 court records in the case including those specified in sections
23 232.147, and 232.149, 232.149A, 232.149B, and 915.25, sealed if
24 the court finds all of the following:

25 Sec. 15. Section 232.150, subsection 1, paragraph a, Code
26 2016, is amended by adding the following new subparagraph:

27 NEW SUBPARAGRAPH. (4) The person was not adjudicated
28 delinquent on an offense involving a violation of section
29 321J.2.

30 Sec. 16. Section 915.25, Code 2016, is amended to read as
31 follows:

32 **915.25 Right to review complaint against juvenile.**

33 1. A complaint filed with the court or its designee pursuant
34 to chapter 232 which alleges that a child who is at least ten
35 years of age has committed a delinquent act, which if committed

1 by an adult would be a ~~public offense~~ forcible felony, is a
2 public record and shall not be confidential under section
3 232.147. The court, the court's designee, or law enforcement
4 officials may release the complaint, including the identity of
5 the child named in the complaint.

6 ~~2. The court, its designee, or law enforcement officials are~~
7 ~~authorized to release the complaint, including the identity of~~
8 ~~the child named in the complaint. All other complaints filed~~
9 ~~with the court or the court's designee pursuant to chapter~~
10 ~~232 that allege a child has committed a delinquent act are~~
11 ~~confidential under section 232.147 and are not public records,~~
12 ~~subject to entry of a public records order pursuant to section~~
13 ~~232.149B. However, if the child named in a complaint is at~~
14 ~~large, state and local law enforcement officials are authorized~~
15 ~~to release the complaint, including the identity of the child~~
16 ~~named in the complaint, if deemed necessary for the protection~~
17 ~~of the public or the safety of the child.~~

18 3. Notwithstanding the provisions of sections 232.147,
19 232.149, and 232.149A, an intake or juvenile court officer
20 shall disclose to the alleged victim of a delinquent act, upon
21 the request of the victim, the complaint, the name and address
22 of the child who allegedly committed the delinquent act, and
23 the disposition of the complaint. If the alleged delinquent
24 act would be a forcible felony if committed by an adult, the
25 intake or juvenile court officer shall provide notification to
26 the victim of the delinquent act as required by section 915.24.

27 Sec. 17. APPLICABILITY. This Act applies to juvenile
28 delinquency proceedings which are pending or arise on or after
29 July 1, 2016.